

**CHAPTER 3**  
**PLEADINGS: FORM OF PAPERS PRESENTED FOR FILING**

**Rule 4.3.1**

**Caption of Petitions**

**A.** The probate filing clerk is not required to read the body of the petition or the prayer to determine notice requirements.

**B.** A "Register of Actions" number (ROA) will be assigned at the time the petition is set for hearing. The ROA must be stated directly below the case number in the caption of all subsequently filed pleadings related to that petition. The party giving notice of the hearing on the petition must include the ROA in the notice.

(Adopted 1/1/1990; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2002; Rev. 7/1/2003; Rev. & Renum. 1/1/2006; Rev. 1/1/2008)

**Rule 4.3.2**

**Filing Documents for Calendared Matters**

**A.** The hearing date, time and department are required on documents filed in connection with matters already set for hearing, and must appear on the first page of the document, below the caption.

**B. Petitions, Applications, and Accountings.** In order to be considered at the calendared hearing, documents filed after the calendared petition must be filed no later than 4:30 p.m. three court days prior to the hearing. Any document filed after the deadline will be considered late and will not be reviewed by Probate Examining for the calendared hearing.

**C. Form and Lodging of Exhibits.** The foundation for exhibits submitted for the court's consideration must be set forth in appropriate declarations which must be filed with the court. If the exhibits accompanying a petition or motion exceed ten pages cumulatively, they must be lodged with the court in accordance with F. below, rather than attached to the pleadings which will remain in the court file. Such exhibits must be lodged at the same time as the corresponding papers are filed with the court. Exhibits written in a foreign language must be accompanied by a translation certified by a qualified interpreter.

**D. Accounting Format.** Accounting schedules must be filed with the court and not lodged or attached as exhibits.

**E. Lodged Documents.** Lodged material must be accompanied by either a stamped, self-addressed envelope or an attorney service pick-up slip.

**F. Lodgments.** A Notice of Lodgment listing all of the items lodged must be filed and served on all appearing parties at the time any matter is lodged with the court. The documents lodged with the court must also be tabbed or paginated to correlate to the Notice of Lodgment. The Notice of Lodgment and the extra copy of the Notice will be filed stamped by the court. Following the return of the lodged documents by the court, the party lodging them must retain them until the applicable appeal period has expired.

**G. Fax Filing.** A faxed document may be filed in accordance with the California Rules of Court, rule 2.300 et seq. However, direct fax filing under California Rules of Court, rule 2.304, is not available.  
(Adopted 1/1/1990; Rev. 7/1/1996; Rev. 1/1/2000; Rev. & Renum. 7/1/2003; Rev. 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2011)

**Rule 4.3.3**

**Use of Judicial Council Forms**

**A.** The latest version of applicable printed forms of petitions, orders and other documents approved by the Judicial Council must be used in all cases, unless otherwise permitted or directed by the court. If a form is inadequate for a given circumstance, an addendum may be attached to the form. When no applicable form has been so approved, counsel must draft their own documents following requirements for pleading format.

**B.** When printed forms are reproduced on the front and back of a single sheet, the back sheet must be inverted ("tumbled") so that it can be read when clipped at the top in a file folder.

**C.** Counsel are cautioned that printed forms prepared by banks or others may not be acceptable for filing.

(Adopted 1/1/1990; Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2009)

#### **Rule 4.3.4**

##### **Affidavits and Declarations Under Penalty of Perjury**

**A.** A declaration must meet all of the requirements of Code of Civil Procedure section 2015.5 to be acceptable in lieu of an affidavit and may contain the following language, whether executed within or without California:

"I declare [or certify] under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date].

\_\_\_\_\_  
[signature of fiduciary]

\_\_\_\_\_  
[name of fiduciary]"

**B.** If such declaration is executed within California, it may take either the above form or the following form:

"I declare [or certify] under penalty of perjury that the foregoing is true and correct and that this Declaration is executed on [date] at [city], California.

\_\_\_\_\_  
[signature of fiduciary]

\_\_\_\_\_  
[name of fiduciary]"

**C.** Where a corporation is the fiduciary, the verification must be made by an officer on its behalf and should take the following form:

"I am [title of officer] of the petitioner in the above-entitled matter, and I am authorized to make this verification on its behalf. I have read the foregoing petition and know its contents, which are true of my own knowledge, except as to the matters that are stated on my information and belief, and as to those matters, I believe it to be true. I declare [or certify] under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on [date] at [city] California.

\_\_\_\_\_  
[signature of officer]

\_\_\_\_\_  
[name of officer]"

(Adopted 1/1/1990; Renum. 7/1/2003; Renum. 1/1/2006)

#### **Rule 4.3.5**

##### **Complete Address in Petition or Report**

Where a petition or report is required to include an address, a full and complete number, street, city, state and zip code for the person's place of business or place of residence must be set forth. Where the mailing address is a different address, it must also be included.

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006)

#### **Rule 4.3.6**

##### **Multiple Minors and Conservatees**

**A.** Where several minors share the same parent, a Petition for Guardianship may be filed under one case number and include all the minors.

**B.** Where a husband and wife are to be conserved, a separate Petition for Conservatorship for each may be filed under the same case number if the assets of the estate are community property. If both petitions are approved, separate Order and Letters must be submitted for each conservatee. In all other cases, the conserved husband and wife must have separate case numbers.

(Adopted 1/1/1990; Rev. & Renum. 7/1/2001; Rev. 7/1/2002; Rev. 7/1/2003; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2011)